

**MONTHLY NEWSLETTER**

FOR CLIENT USE ONLY

Vol. XX, No. 1

January 15, 2002

**Recent Legal Developments**  
**in the**  
**United Arab Emirates**  
**and**  
**Highlights from**  
**Bahrain, Egypt, Iran, Kuwait,**  
**Oman, Pakistan, Qatar and Saudi Arabia**

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UNITED ARAB EMIRATES

1. Money Laundering

a. Federal Law. Federal Law No. 4 of 2002 criminalizes money laundering in the U.A.E. and provides supporting mechanisms and structures to enforce the prohibition.

Under the Law, prohibited activity consists of the intentional commission of any act involving the transfer, movement or deposit of property or concealment or disguise of its true nature with the knowledge that such property is derived from an offense relating to:

- (a) narcotics and psychotropic substances;
- (b) kidnapping, piracy and terrorism;
- (c) violation of the environmental law;
- (d) illicit dealings in firearms and ammunition;
- (e) bribery, embezzlement and damage to public property;
- (f) fraud, breach of trust and related offenses; and
- (g) other related offenses specified in relevant international conventions to which the U.A.E. is party.

The offense of money laundering is punishable with a prison term of up to seven years or a fine of up to Dh 300,000. These criminal sanctions are in addition to confiscation of proceeds or equivalent assets where such proceeds are converted into or mixed with lawfully derived property.

The Law imposes both general and specific obligations on Financial Institutions and Other Financial, Commercial and Economic Institutions. The Law defines Financial Institutions to include any bank, finance company, money exchange house, financial or monetary intermediary or any other establishment licensed by the Central Bank, whether publicly or privately owned. The term Other Financial, Commercial and Economic Institutions is defined to mean establishments licensed and regulated by agencies other than the Central Bank, such as insurance companies, stock exchanges and others. The Law is accordingly broader in

scope than Central Bank Circular No. 24 of 2000, which applied only to banks (see the January 2001 edition of this Newsletter).

The Law establishes a National Anti-Money Laundering Committee chaired by the Governor of the Central Bank. Other Committee members include nominees of (i) the Central Bank, (ii) the Ministry of Interior, (iii) the Ministry of Justice, Islamic Affairs and Awqaf, (iv) the Ministry of Finance and Industry, (v) the Ministry of Economy and Commerce, (vi) the authorities concerned with issuing commercial and industrial licenses and (vii) the U.A.E. Customs Council. The duties of the Committee shall include (i) proposing anti-money laundering rules and procedures, (ii) facilitating exchange of information and coordination between the government agencies represented on the Committee, (iii) representing the U.A.E. in international anti-money laundering fora, (iv) proposing the Committee's organizational regulations and (v) undertaking any such additional matters as the competent authorities may from time to time refer to the Committee.

The Law also provides for a Financial Information Unit to be established within the Central Bank, designated to deal with cases of money laundering and suspected money laundering. All Financial Institutions and Other Financial, Commercial and Economic Institutions are required to report any transaction suspected of violating the Law to the Unit, using a format to be specified by the Committee.

In addition to the criminal liability imposed on offenders engaged in money laundering, the Law specifies a number of additional penal sanctions to prevent and combat money laundering activities. The Law provides that money laundering committed in the name or for the account of any Financial Institution or Other Financial, Commercial and Economic Institution operating in the U.A.E. shall render such entity criminally liable to a fine ranging from Dh 300,000 to Dh 1,000,000 in addition to confiscation of proceeds or property, or equivalent assets if converted into or mixed with property derived from lawful sources.

The Law also specifies circumstances in which criminal liability will extend to officers and employees of a legal person. In particular, a chairman, director, manager or employee of a Financial Institution or Other Financial, Commercial and Economic Institution who fails to report to the Unit the occurrence of any act related to money laundering is subject to imprisonment and a fine of up to Dh 100,000. In addition, a person who alerts another that he is being monitored or investigated in connection with suspected money laundering activities is subject to imprisonment of up to one year and a fine of up to

Dh 50,000. A person who falsely notifies the authorities of a money laundering offense in bad faith and with intent to cause harm to another shall be subject to the penalty that applies to the offense that was falsely reported. A person who violates any other provision of the Law shall be punished with a fine of at least Dh 100,000.

The Law provides a degree of immunity to persons who disclose information in compliance with the Law's reporting obligations. Specifically, Financial Institutions, Other Financial, Commercial and Economic Institutions, and their directors, employees and representatives shall enjoy immunity from any criminal, civil or administrative liability that may arise from disclosure of required information or from departure from a confidentiality restriction imposed by a statutory, contractual, regulatory or administrative provision unless it is proved that such disclosure occurred in bad faith with intent to cause harm.

The Public Prosecutor has the sole authority to bring criminal prosecutions under the Law. The Central Bank may freeze suspect property held by a Financial Institution for a period of up to seven days. Precautionary orders and provisional attachment orders relating to property with Financial Institutions must be executed by means of the Central Bank.

The Law directs the Central Bank to define a threshold for the undeclared import of cash into the U.A.E. and to establish a system for declaration of sums imported in excess of such threshold. A violation of these restrictions is punishable with a fine of between Dh 2,000 and Dh 10,000, and the funds in question shall be attached until released by an order of the public prosecution office.

The relevant licensing and supervision agencies for Financial Institutions and other Financial, Commercial and Economic Institutions are required to establish appropriate mechanisms to ensure compliance with anti-money laundering rules and regulations. A specific obligation is imposed on such agencies to report suspicious cases to the Financial Information Unit. All concerned agencies are required to treat as confidential all information pertaining to the criminal offenses introduced by the Law, except to the extent required for use in investigations, legal actions, or lawsuits relating to violations of the Law.

With regard to cooperation in respect of international money laundering, the Law provides that the judicial authorities of the U.A.E. may order the pursuit, freezing or provisional attachment of property, proceeds or instrumentalities pursuant to a request from the judicial authority of another state, on the basis of a treaty binding on both states, or on condition of reciprocity if the offense in question is also punishable in the U.A.E.

b. Instructions to insurance companies. The U.A.E. Minister of Economy and Commerce has issued a Circular to all insurance companies in the U.A.E. establishing procedures to combat money laundering.

The Circular defines money laundering as any act involving movement, transfer, deposit, concealment or disguise of illegally obtained property, for the purpose of making such property appear, contrary to fact, to be derived from legitimate sources.

The Circular applies to all insurance companies operating in the U.A.E. and to their directors and employees. The Circular also applies to foreign branch offices of local insurance companies if the countries in which the branches are located do not apply anti-money laundering procedures or if they apply procedures less stringent than those imposed by the Circular.

In accordance with the Circular, an insurance company is required in five specific circumstances to verify information about its client. The information that it must verify includes the client's identity and financial status, the source of the funds to be invested, the reasons for obtaining insurance, the client's net annual income during the past three years, the life insurance, savings and fund accumulation policies held by the client, whether issued by the reporting insurance company or other insurance companies, the distribution of assets that the client owns, loans that the client has obtained, and the names of the financial institutions with which the client deals.

These verifications are required in the following five circumstances:

- (a) If the client's premium payments to the insurance company exceed (i) for individuals, a lump sum of Dh 370,000 or an installment of Dh 92,000, (ii) for groups, a lump sum of Dh 1,100,000 or an installment of Dh 275,000, or (iii) Dh 40,000 in cash.
- (b) If the client holds insurance contracts with the same or other insurance companies in which the total funds invested exceed the limits set forth in this Circular.
- (c) If a cash payment is received in the amount of Dh 40,000 or more by personal check, bank transfer, traveller's check or postal order.
- (d) If the cumulative total amount of cash paid exceeds Dh 40,000 in a single year.

(e) If there is suspicion of money laundering, even if the sums in question are less than the limits set forth in this Circular.

The Circular prohibits the issuance of a life insurance, savings or fund accumulation contract to a person using a pseudonym. Instead, the name of the policy holder must conform to the name shown in his or her passport for an individual, or in the trade license for a juristic person.

All insurance companies licensed in the U.A.E. and their directors, managers and employees are obliged personally to report any unusual transaction which may have the purpose of money laundering and submit a report to the Assistant Undersecretary for Companies Affairs at the Ministry of Economy and Commerce, who in turn shall submit a copy of the report to the Central Bank. All investigations are to be conducted in utmost secrecy, and the insurance company and its employees are accordingly prohibited from informing the client of the foregoing.

Insurance companies that do not comply with the provisions of the Circular will be punished in accordance with the rules and regulations in force in the U.A.E.

Insurance companies must:

- (a) Provide the Ministry with the name of the employee charged with contacting the Ministry to report cases of money laundering or suspected money laundering, reporting thereupon, and maintaining appropriate records thereof;
- (b) Insure that internal control regulations adequately implement and appropriately cover the application of anti-money laundering procedures; and
- (c) Receive from the client a copy of his passport or identity card if the client is an individual, signed as a true copy by the concerned employee; a copy of the trade license if the client is an institution, signed as a true copy by the concerned employee; and a financial statement and statement of identity of a client holding a life insurance, savings or fund accumulation policy, as per the form attached to the Circular.

The Circular stipulates that all policies, forms, registers and files must be saved for a period of five years

from the date the insurance contract is issued and should be available to the Ministry's inspectors.

The Circular has two annexes. The first provides four examples of how insurance companies can be used for money laundering purposes, while the second provides examples of how clients, agents and employees of insurance companies can be involved in money laundering. Also attached is a form for reporting the financial statement and identity of a life insurance, savings or fund accumulation policy holder.

## 2. New Federal Civil Service Law

Federal Law No. 21 of 2001 introduces new rules governing employment by the Federal government and repeals its predecessor statute, Federal Law No. 8 of 1973. It closely follows the text of the draft law that was reported earlier (see the June 1999 edition of this Newsletter).

The new Law sets forth comprehensive rules on the appointment, evaluation, promotion, terms and conditions of employment, obligations, investigation, discipline and discharge of employees of the Federal government. The system of Civil Service grades will be determined by resolution of the Cabinet, and the Civil Service Council will have a general role in governing affairs related to the Civil Service.

The anti-bribery and anti-conflict of interest provisions that were contained in Federal Law No. 8 of 1973 are expanded. The new Law continues to provide that a civil servant may not perform any acts for another person for a salary or without a salary, even if outside official hours of work, except upon permission of the concerned Minister; that a civil servant may not have any direct or indirect interest in any business, contracting agreement or contracts related to the task of the Ministry to which he belongs; and that a civil servant may not take as lessee any real property, lands, or other property with the intent of exploiting the same at the same time that the tasks of his office are performed therein. The new Law also contains express provisions that no civil servant may combine his office with any other office, although as an exception a civil servant may serve on the Board of Directors of a society of public benefit or a corporation having state shareholding; and that no civil servant may conduct any professional, commercial or financial activity related to the authority for which he works, either by himself or through an intermediary.

### 3. Sharjah Tenancy Law

The Emirate of Sharjah has enacted a new Law that governs the leasing of real estate and replaces the earlier statute, which was enacted in 1977. The new Law includes protections for tenants who lease land for residential, commercial, industrial or professional purposes. Land used for agricultural purposes, government lands, residences provided for employee accommodations, hotels and land leased for more than 25 years are specifically exempt from coverage of the new Law.

a. Rent committee. The new Law provides for the establishment of rental mediation committees. It contemplates that such rent committees may be established in cities throughout the Emirate of Sharjah pursuant to a Decree to be issued at a later time by the Executive Council of Sharjah and approved by the Ruler of Sharjah. A rent committee will be empowered to adjudicate disputes between landlords and tenants. It will have some judicial powers, such as the power to hear requests for temporary and summary procedures and to award monetary damages. The committee's monetary damages awards that do not exceed Dh 100,000 may not be appealed. However, awards exceeding Dh 100,000 may be appealed to a Complaints Committee, which when established will consist of three judges nominated by the U.A.E. Federal Minister of Justice and Islamic Affairs. Appeals to the Complaints Committee must be taken within fifteen days of a party's notification that the rental mediation committee has ordered it to pay damages in excess of Dh 100,000. Awards of the Complaints Committee cannot be appealed.

b. Registration. A tenancy contract and any amendment to a tenancy contract must be registered with the (1) Sharjah Municipality or other competent authority, (2) the rental mediation committee, and (3) the Complaints Committee. Either a landlord or a tenant may ask the rental mediation committee to compel the other party to register the tenancy contract. The Law permits the Sharjah Municipality or other competent authority to register the tenancy contract if a tenant or a landlord refuses to adhere to the rental mediation committee's order to register the tenancy contract.

The new Law prohibits a government agency from considering an unregistered tenancy contract. If a tenant fails to register a tenancy contract or any amendment to a

tenancy contract, the Sharjah Municipality may notify the tenant to register the contract or amendment within fifteen days. If the tenant fails to do so, the Sharjah Municipality may suspend all public services to the premises.

c. Eviction. The new Law prohibits a landlord from evicting a tenant for a period of at least three years from the date of execution of the tenancy contract or an extension of it even if the term of the relevant tenancy contract is for a shorter period of time. However, there are some exceptions to these broad protections.

If a tenant renting residential premises fails to pay rent within fifteen days of such rent coming due, the landlord may evict the tenant. Similarly, if a tenant renting premises for commercial, industrial or professional purposes fails to pay rent within thirty days of the rent coming due, the landlord may evict the tenant. However, if the landlord refuses to accept the rent or to inform the tenant of the place where it will receive rental payments, then the tenant may deposit the rent in the rental mediation committee's name at the Sharjah Municipality. The tenant must notify the landlord of such deposit and the landlord may petition the rental mediation committee to receive any amounts deposited. Such deposits are not subject to any fees.

A tenant may also be evicted if it violates the terms of the relevant tenancy contract, the U.A.E. Civil Code or the Sharjah Tenancy Law and if the tenant fails to remedy the violation within fifteen days of being notified of the violation by the landlord. A tenant may be evicted if it subleases the premises without the approval of the landlord. It may also be evicted if it uses the premises for purposes that are not specified in the relevant tenancy contract or for purposes contrary to public order and morals.

A landlord may evict a tenant in order to reconstruct or make additions to the premises if the landlord obtains the necessary governmental licenses required to undertake such work. A tenant may also be evicted if the premises are dilapidated or are in a zone not designated for their current use. In both cases, a tenant will be given three months' notice to vacate. If the landlord evicts the tenant because the premises are dilapidated, the landlord must begin demolishing the premises within two months of the vacation of the premises. Otherwise, the tenant may petition the rental mediation committee to return to the premises and seek damages associated with vacating the premises from the landlord.

A landlord who wants to occupy the premises himself or permit one of his sons to occupy the premises may evict a current tenant if the landlord has no other suitable residence in the area where the premises are located. In such case, the landlord must give the tenant at least three months' notice before expiration of the tenancy contract and the landlord or one of his sons must occupy the vacated premises for at least one year after evicting the tenant. If the landlord evicts the tenant in order to occupy the premises himself or to permit one of his sons to occupy the premises, then either the landlord or one of his sons must occupy the premises within two months of the tenant's vacating the premises. Otherwise, the tenant may petition the rental mediation committee to return to the premises and seek damages associated with vacating the premises from the landlord.

d. Rent control. A landlord may not increase the rent on the premises for a period of three years from the date of execution of the relevant tenancy contract. If the landlord transfers ownership of the premises, the new owner may not increase the rent on the premises for a period of three years from the date of execution of the tenancy contract with the previous owner. At the expiration of the three-year period, the landlord and the tenant may agree to change the amount of the rent payment. However, if the parties cannot agree on the amount of the rent payment, they may petition the rental mediation committee which will determine the rent payments for the following three-year period. In order to determine the amount of the rent payments, the rental mediation committee may consider prevailing economic conditions in the Emirate of Sharjah, the condition of the premises, rental amounts for similar premises in the vicinity and other relevant factors.

The new Law gives tenants substantial protections against harassment. A landlord may not deprive the tenant of utilizing the rented premises, its appurtenances or services, nor may a landlord pressure the tenant to vacate the premises or raise the rent in violation of the Law. A landlord may not destroy items on the premises or take any items that were on the premises at the commencement of the tenancy. If a landlord undertakes any of these acts, the tenant may petition the rental mediation committee which may ask the landlord to rectify the violation. If the landlord fails to do so, the tenant may rectify the violation at the landlord's expense and deduct costs from the rent payment. The tenant may also file a court claim for compensation.

e. Abandonment of premises. If a tenant abandons the premises, the landlord may appear before an execution court after the tenancy contract has expired and ask the execution court to permit the landlord to rent the premises to another tenant. The execution court may issue a notice to the tenant calling on the tenant to appear before the court. The landlord must post the notice in a visible place on the premises and publish the notice in an Arabic newspaper. If the tenant does not appear before the execution court within fifteen days of publication of the notice, then the execution court may open the premises, take an inventory of the contents and deposit them with the Court Deposits Section or with a third party. The execution court must prepare a detailed memorandum regarding the inventory and the deposit, and it may then hand over the premises to the landlord. The execution court must expedite these procedures, but it is not permitted to charge judicial fees relating to the procedures.

f. Regulations. A Decree implementing the Law will be issued by the Sharjah Executive Council. The Decree will specify the fees that may be charged to implement the Law. It will also establish the rental mediation committee and the Complaints Committee.

#### 4. Additional Service Mark Categories

Ministerial Resolution No. 165 of 2001, promulgated by the Minister of Economy and Commerce, amends the Implementing Regulations to the Trademarks Law (see the July 1994 edition of this Newsletter) in respect of the recognized classes of trademarks. The amendment replaces class 42 of registrable trademarks with four new classes. The replaced class 42 was the "miscellaneous" class for services-related trademarks. The amendment aims to ensure

consistency between U.A.E. law and the international classification of commodities and services used by the World Intellectual Property Organization. Classes 42 through 45 now include the following:

Class 42 Scientific and technical services and the research and design services relating thereto, industrial analysis and research services, development and design of computer equipment and computer programs services, legal services.

Class 43 Provision of foodstuff and beverages and temporary accommodation services.

Class 44 Medical and veterinary services, health and beauty services, agricultural gardening and forest services.

Class 45 Personal and social services rendered by third parties to meet individual needs, security services for protection of property and individuals.

#### 5. Hacker Prosecution

In June 2000, we reported on the prosecution of a young computer technician who had allegedly hacked into and initiated denial of service attacks on Etisalat, the U.A.E. telecommunications monopoly and Internet Service Provider. The accused was charged under Article 46B of the Federal Law creating Etisalat, which relates to "misuse of equipment, services or facilities provided by Etisalat" (see the June 2000 edition of this Newsletter). The specific charges were (i) opening Etisalat employees' private E-mails and (ii) improperly gaining access to and misusing Etisalat's internet system.

In July 2001, the accused was convicted on the first charge but acquitted on the second charge, and sentenced to pay a fine of Dh 10,000. The Dubai Court of Appeal then found the accused guilty on both charges, but did not modify the fine. The Dubai Court of Cassation has now upheld the ruling of the Court of Appeal. It is understood that collateral civil litigation is proceeding, including the hacker's defamation case against Etisalat and Etisalat's civil case for damages against the hacker.

#### 6. Challenge to Enforcement Court Order

We have recently reported on the limited scope for judicial review of enforcement court orders under Article 222 of the Code of Civil Procedure (see the October 2001 edition of this Newsletter). We now report on the review of such orders in light of Article 173(2) of the Code of Civil Procedure, which provides that judgements rendered by courts of appeal in enforcement proceedings may not be appealed to the Federal Supreme Court.

A final judgement was issued against a limited liability company and its shareholders, which the judgement creditor sought to enforce against one of the shareholders. The defendant in the enforcement case asked the enforcement court to restrict enforcement of the judgement to the defendant's share in the capital of the limited liability company, on the grounds that the judgement did not order joint and several liability. The enforcement court denied the request, and this denial was upheld by the Federal Court of Appeal.

Before the Federal Supreme Court, a threshold issue was raised as to the Court's jurisdiction in light of Article 173(2) of the Code of Civil Procedure. In holding that it had jurisdiction notwithstanding Article 173(2), the Federal Supreme Court drew a distinction between orders passed in enforcement of judgements and orders ruling on the merits. The former category of orders was addressed by Article 173(2), but not the latter. In the current case, the order of the enforcement court involved more than mere enforcement of a judgement and touched on the merits of the underlying dispute by ruling on the issue of joint and several liability. The Federal Supreme Court held that the order of the Court of Appeal must be vacated and the case remanded to the Court of Appeal for further consideration.

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